of these doctrines on the law as to punishing attempts to commit crime. At present criminologists were in a dilemma. They wished both to reform the criminal and to protect society. But the more the criminal law is reformatory or educational, the less is it a deterrent; the more it is a deterrent the less is it educational. The desire to be humane might conflict with effective measures of reformation. Philanthropists, such as the late Mr. Charles Hopwood, pleaded for short sentences, but true reformatory treatment might require long ones. In this conflict between antagonistic aims and modes of treatment seemed at first sight to be the bankruptcy of criminal law as hitherto understood.

J. W. G.

Administration of the Criminal Law in Texas.—In Texas, as in many other states, there has been widespread complaint on account of the law's delay and the frequent miscarriage of justice. In the May (1910) number of the JOURNAL (p. 127), we quoted from an address of the president of the Texas Association of Prosecuting Attorneys, who described the methods by which criminals escape punishment in that state. Statitsics were quoted to show that only a small percentage of criminals were ever convicted, and that 51 per cent of the cases appealed were reversed by the Court of Appeals. The Democratic platform of Texas in 1906 contained a plank demanding simplification of procedure and reform of the jury system. The legislature enacted some legislation in obedience to the popular demand, but the more important reforms proposed were defeated. In his campaign for re-election in 1908 Governor Campbell advocated certain reforms in civil and criminal procedure, and again the state convention repeated its demand for such changes as would reduce the expense of litigation and secure a more speedy administration of justice. In his message to the legislature, January 12 of the present year, Governor Campbell reviewed his efforts to induce action on the part of the legislature and dwelt upon the crying need for reform. Among other things, he said:

"In my last message to the thirtieth legislature, in urging compliance with the platform demand that legislation simplifying the procedure in criminal trials should be enacted, I used the following language: 'The present complex and cumbersome procedure is a shield to the criminal, defeats justice, increases the number of our courts, and adds unnecessary burdens upon the taxpayers. Perplexing technicalities encourage crime, employ the time of the courts to no useful end, and the people pay the costs. A rigid enforcement of all the laws is essential to the social well-being, and is demanded as the only safe guarantee of life, liberty and property. To longer tolerate a system of technical obstacles behind which murderers and rogues may barricade themselves and defy the laws would be a reflection upon the wisdom, if not the sincerity, of our statesmanship. To say that crime can run rampant in Texas, and that our laws cannot be enforced, is to admit that we are incapable of self-government. That our law-abiding citizenship is growing impatient and restless at the law's delays and the uncertainty of punishment for crime cannot be denied. That there is just ground for such a discontent must be conceded. There is too much machinery in our criminal trials, too much literature, and too many refinements in the court's charge to the jury, and too many loopholes through which criminals may escape. When the court's charge in a crim-

inal case is heard, especially the charge in murder cases, the intelligent citizen is often made to wonder how any man is ever punished for crime. How is it possible for any juror, not trained in the law, to ever measure the guilt or innocence of an accused person by rules and distinctions not always understood by the courts themselves? Is it a surprise that juries disagree, that criminals go unwhipped of justice, that new trials are forced, cases reversed by the Appellate courts, and that mob spirit is rife in Texas? The judges are not at fault; the juries are not always to blame; the main difficulty is in the system. A fair and impartial trial, upon the law and the facts, without tangled and technical rules, should be accorded the accused, and when this is done, and not until then, a multiplicity of trials and delays can be avoided and substantial justice may with some reason be expected in all cases.'

"With respect to the procedure in civil trials I then said: 'As in criminal cases, probably more than one-half of the civil suits tried and appealed are reversed and remanded for new trials, and many new trials are granted by trial courts on account of errors in the court's charge to the jury. . . . It does seem to me that an earnest effort should be made to provide the relief demanded, and with that end in view I urgently recommend to the legislature the passage of the following laws:

"1. That jury exemptions be further limited, and that the causes for which the trial judge may, in the exercise of his discretion, grant excuses to jurors drawn for service be accurately defined and further limited.

"2. That the legislature either prescribes by statute a common-sense form of charge in every criminal case of the grade of felony or require such charge to embrace only the nature of the accusation, and a copy of the statutes applicable to the offense charged and the facts proven in the case. . . . As the statute now stands, when the case is tried, notwithstanding a matter may not have been called to the attention of the court, if upon an examination of the entire record after the trial, and in the office of learned counsel, a technical error is discovered, a new trial follows. This ought by all means to be changed, and, if changed, would result in a more certain enforcement of the law and in the affirmance of many cases which under the present rule are required to be reversed for errors usually technical and in no way affecting adversely the substantial rights of the defendant.

"4. A law should be enacted providing that no judgment should be reversed for an error which does not affect the substantial rights of the adverse party. This law should apply to both criminal and civil cases. This is not now the rule in many states of the Union.

"Every thoughtful man admits the necessity for legislative reform along the lines suggested and so often urged. The people and the press of the state are protesting against existing conditions and have the right to expect relief at the hands of your honorable bodies. The technicalities and high-sounding, ornate literary nonsense now obstructing the courts, encouraging crime, delaying civil and criminal trials and defeating justice should be swept away by some common-sense legislation. With this done, the number of courts could be reduced instead of increased, and criminals could be more speedily and certainly punished."

J. W. G.